

AMENDED IN SENATE MAY 4, 2004

AMENDED IN SENATE APRIL 26, 2004

SENATE BILL

No. 1431

Introduced by Senators Speier and Romero

February 19, 2004

An act to add Section 5058.4 to the Penal Code, and to add Section 1752.05 to the Welfare and Institutions Code, relating to corrections.

LEGISLATIVE COUNSEL'S DIGEST

SB 1431, as amended, Speier. Department of Corrections: code of conduct.

Existing law establishes the Department of Corrections for the confinement of persons who have committed crimes. Existing law also establishes the Department of the Youth Authority for the rehabilitation of certain persons who have committed offenses when they were under 18 years of age, as specified. Existing law creates the offices of the Director of Corrections and the Director of the Youth Authority to administer institutions within the jurisdiction of these departments.

This bill would require the directors of those departments to adopt regulations imposing a schedule of sanctions for misconduct by employees. The bill would also require the directors to adopt a code of conduct that would clearly state, among other things, an employee's responsibility to report employee misconduct and cooperate in any investigation conducted by law enforcement, as specified. The bill would also provide that each warden of a prison facility and each superintendent of a Department of the Youth Authority facility shall be required to publish specified information relating to the code of

conduct. *The bill would include a statement of legislative findings and declarations regarding conduct in correctional facilities.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. *The Legislature finds and declares the*
2 *following:*

3 (a) *Investigations of the state's correctional facilities*
4 *conducted by authorities and by the Legislature have revealed the*
5 *existence of a "code of silence" that has threatened inmates, the*
6 *integrity of correctional officers, security within the institutions,*
7 *and public safety.*

8 (b) *Findings made by the federal court special master in the*
9 *investigation of the Pelican Bay State Prison confirm that newly*
10 *hired correctional officers who work for the Department of*
11 *Corrections are often confronted by this code of silence, which*
12 *forces good officers to commit crimes or lie or cover-up the abuses*
13 *of their coworkers, and that the department has failed to address*
14 *the situation in an effective manner.*

15 (c) *The whistleblower laws applicable to all employees of the*
16 *state are insufficient to protect those workers at the Department of*
17 *Corrections and the Department of the Youth Authority who*
18 *choose to expose the wrongdoing of coworkers or their superiors,*
19 *and therefore these employees must be provided additional*
20 *protections to ensure their safety as well as their cooperation in the*
21 *investigation of wrongdoing within the departments.*

22 (d) *In order to break the code of silence, the Department of*
23 *Corrections and the Department of the Youth Authority must adopt*
24 *a code of conduct that would provide uniform guidance to all*
25 *workers at these departments, including their duty to report*
26 *wrongdoing at their workplace, and the protection that may be*
27 *provided to those who discharge this duty in good faith.*

28 SEC. 2. Section 5058.4 is added to the Penal Code, to read:

29 5058.4. (a) The director shall provide for the development
30 and implementation of a disciplinary matrix with offenses and
31 associated punishments applicable equally to all department
32 employees, in order to ensure notice and consistency statewide.



(b) The director shall adopt a code of conduct that shall clearly state, among other things, an employee's responsibility to report employee misconduct, and to cooperate in any investigation conducted by local, state, or federal law enforcement agencies or their agents. The code of conduct shall specify the kinds of behavior that are prohibited *or sanctioned, including, but not limited to, retaliating against another employee who reports improper governmental activities, neglect of duty, gambling or sleeping while at work, racial harassment, sexual harassment, smuggling contraband into the correctional facility, misuse of state property, unnecessary use of force, overfamiliarity with inmates, and the causes for discipline listed in Section 19572 of the Government Code.*

(c) The director shall develop a program to ensure the protection of employees who have reported improper governmental activities and who require counseling or personal protection. *The protections provided employees under this program shall be in addition to any other protection for employees who report improper governmental activities available under existing law.*

(d) Each warden shall be required to publish every six months to all employees through the prison's In Service Training Bulletin, the following:

- (1) Information regarding the code of conduct.
- (2) The duty to report misconduct.
- (3) How to report misconduct.
- (4) The duty to fully cooperate during investigations.
- (5) Assurances against retaliation.

~~SEC. 2.~~

SEC. 3. Section 1752.05 is added to the Welfare and Institutions Code, to read:

1752.05. (a) The director shall provide for the development and implementation of a disciplinary matrix with offenses and associated punishments applicable equally to all department employees, in order to ensure notice and consistency statewide.

(b) The director shall adopt a code of conduct that shall clearly state, among other things, an employee's responsibility to report employee misconduct, and to cooperate in any investigation conducted by local, state, or federal law enforcement agencies or their agents. The code of conduct shall specify the kinds of

1 behavior that are prohibited *or sanctioned, including, but not*
2 *limited to, retaliating against another employee who reports*
3 *improper governmental activities, neglect of duty, gambling or*
4 *sleeping while at work, racial harassment, sexual harassment,*
5 *smuggling contraband into the youth authority facility, misuse of*
6 *state property, unnecessary use of force, overfamiliarity with*
7 *inmates, and the causes for discipline listed in Section 19572 of the*
8 *Government Code.*

9 (c) The director shall develop a program to ensure the
10 protection of employees who have reported improper
11 governmental activities and who require counseling or personal
12 protection. *The protections provided employees under this*
13 *program shall be in addition to any other protection for employees*
14 *who report improper governmental activities available under*
15 *existing law.*

16 (d) Each superintendent shall be required to publish every six
17 months, the following:

- 18 (1) Information regarding the code of conduct.
- 19 (2) The duty to report misconduct.
- 20 (3) How to report misconduct.
- 21 (4) The duty to fully cooperate during investigations.
- 22 (5) Assurances against retaliation.

